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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/753,472 | 01/03/2001 | Guilherme Luiz Indig | 09820.146 | 1825 |

25005 7590 03/11/2002
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[REDACTED] EXAMINER

GOLDBERG, JEROME D

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

1614

DATE MAILED: 03/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-------------------------------|-----------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/753,472 | INDIG, GUILHERME LUIZ |
| | Examiner Jerome D Goldberg | Art Unit 1614 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 07 May 2001.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) _____ is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) 1-10 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1614

Restriction to me one of the following invention is required under 35 U.S.C. 121.

Group I: Claims 1-5 drawn to purging malignant cells from bone narrow cells to be employed as a bone narrow graft.

Group II: Claims 6-10 drawn to killing cancer cells or inhibiting growth of cancer cells in vitro, in vivo or ex vivo.

The Group II method is a method for treating cancer per se while the Group I method is a method for treating bone narrow by first ~~treating~~ ^{removing the} bone narrow and than treating same.

The several inventions above are independent and distinct, each from the other, as they have acquired a separate status in the art of treating cancer as a separate subject matter for inventive effect and require independent searches. It is noted that a reference to Group I method would not be a reference to the Group I method would not be a reference to the Group II under 35 U.S.C. 103. Therefore, restriction for examination purposes is proper.

Applicant is required to make a provisional election even though this requirement is traversed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerome Goldberg whose telephone number is (703) 308-4606. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ^{Suebel} Marianne Gittins, can be reached on (703) 308-4725. The fax phone

Art Unit: 1614

number for the organization where this application or proceeding is assigned is (703)

308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Goldberg/LR

March 7, 2002



JEROME D. GOLDBERG
PRIMARY EXAMINER